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November 2, 2012

Anthony Herman
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

MUR # 6689

OFFICE OF THE
COMPTROLLER
OF THE
FEDERAL ELECTION COMMISSION

2012 NOV - 8 AM 11:45

FEDERAL ELECTION COMMISSION

Re: Request for Immediate Dismissal of Complaint
Against Jim C. Walton

Dear Mr. Herman:

Nielsen Merksamer specializes in political law compliance matters on a nationwide basis. We have represented Jim Walton in this capacity since 2001. We have reviewed the allegations in the complaint recently filed with the Federal Election Commission by Making Change at Walmart, and have concluded that this complaint is entirely baseless as Jim Walton is, and at all times was, in full compliance with all applicable federal campaign contribution limits. This conclusion could have, and should have, been reached by the complainant if exercising even a minimal level of research diligence. We respectfully request that this complaint be dismissed.

Mr. Walton made a single contribution of \$4,300 to the McCain Victory 2008 joint fundraising committee in August 2008. This \$4,300 joint fundraising committee contribution should have been allocated as \$2,300 to the John McCain 2008 General Election Compliance Fund and \$2,000 to the Republican National Committee. Please see the attached memo from Mr. Walton dated August 7, 2008, indicating this requested allocation of the contribution.

Unfortunately, the McCain Victory 2008 joint fundraising committee erroneously (initially) allocated this \$4,300 contribution as \$2,300 to the John McCain 2008 Primary Election and \$2,000 to the John McCain 2008 General Election Compliance Fund. This error was apparently discovered by the McCain campaign, and the funds were subsequently re-allocated to their intended recipients: \$2,300 to the John McCain 2008 General Election Compliance Fund and \$2,000 to the Republican National Committee. (See [Memo Item] on page 32951 of John

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McCain 2008, Inc. (Primary) committee report, for 8/29/2008 contribution noting: "REFUND TO BE ISSUED." This is *not* a refund to Mr. Walton, but rather a refund to the McCain Victory 2008 joint fundraising committee so that the \$2,300 could be properly reallocated to the John McCain 2008 General Election Compliance Fund.)

These proper re-allocations, which were subsequently made, were within all applicable federal campaign contribution limits. When you subtract out the erroneously allocated contributions of \$2,300 to the John McCain 2008 Primary Election and \$2,000 to the John McCain 2008 General Election Compliance Fund, Mr. Walton's total *candidate* contributions for the election cycle were \$41,800, within the applicable limits. Similarly, when you subtract out the erroneously allocated contributions of \$2,300 to the John McCain 2008 Primary Election and \$2,000 to the John McCain 2008 General Election Compliance Fund, Mr. Walton's total *federal* contributions for the election cycle were \$107,300, within the applicable limits.

The "phantom" second \$4,300 contribution to the McCain Victory 2008 joint fundraising committee, on which the complainant relies in its baseless complaint, in fact was never made and does not exist. This is evidenced by the fact complainant cannot find, and did not attach, any evidence of a second \$4,300 contribution to the McCain Victory 2008 joint fundraising committee.

We therefore request that you dismiss this baseless complaint. Should you have any questions, please feel free to contact me at slucas@nmgovlaw.com or (415) 389-6800.

Sincerely,



Steven S. Lucas

SSL/sfr
Enclosure
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